IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6229 OF 2007

Bhausaheb Appasaheb Dubal.... Petitioner

versus

The Managing Director,
Vasantdada Shekari Sahakari Bank Ltd.... Respondent.

Shri A.L.Desai for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 25TH OCTOBER, 2007

P.C.;

1. The petitioners have borrowed loan from the respondent bank, and having defaulted in re-payment of the loan the bank procured recovery certificate under section 101. Interest at the rate of 19.5% per annum was granted. Aggrieved by the grant of interest at the stipulated rate, a revision was carried by the petitioners before the Divisional Joint Registrar. Divisional Joint Registrar has found, after examining the record, that the promissory notes stipulates payment of interest at the rate of 19% whereas what has been granted by the Deputy Registrar was 19.5%. Hence for a limited purpose the matter has been remanded for carrying out the correction in the certificate by reducing the rate of interest.

2. Perused the order impugned in this petition. The same does not call for any interference. The learned counsel for the petitioner has submitted that when the loan is secured by mortgage, then the Deputy Registrar had no jurisdiction under section 101, to issue a certificate and the only course left open for the Bank was to file a dispute under section 91 of the Co-operative Societies Act. The contention is thus that as the petitioner has executed a mortgage, the bank could not have obtained a certificate under section 101. The said contention is devoid of any merit and stands rejected. Writ Petition is thus summarily dismissed.

3. The learned counsel for the petitioner at this stage submits that the petitioner is ready and willing to pay the amount as directed by the Revisional authority, but seeks reasonable time to make payment. As the Divisional authority has remanded the matter for carrying out the correction, I grant liberty to the petitioner to urge for grant of time for making the balance payment before the Deputy Registrar.

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